

# CORRESPONDENCE/MEMORANDUM

State of Wisconsin  
Department of Commerce

**DATE:** October 3, 2006

**TO:** David Storey, Joseph Thomas, Oscar Herrera, Dennis Legler, Eric Scott,  
Laura Varriale, Louie Cornelius

**FROM:** Laura Pleasants

**SUBJECT:** *Monthly Report of PECFA Appeals for September 2006*

## Executive Summary

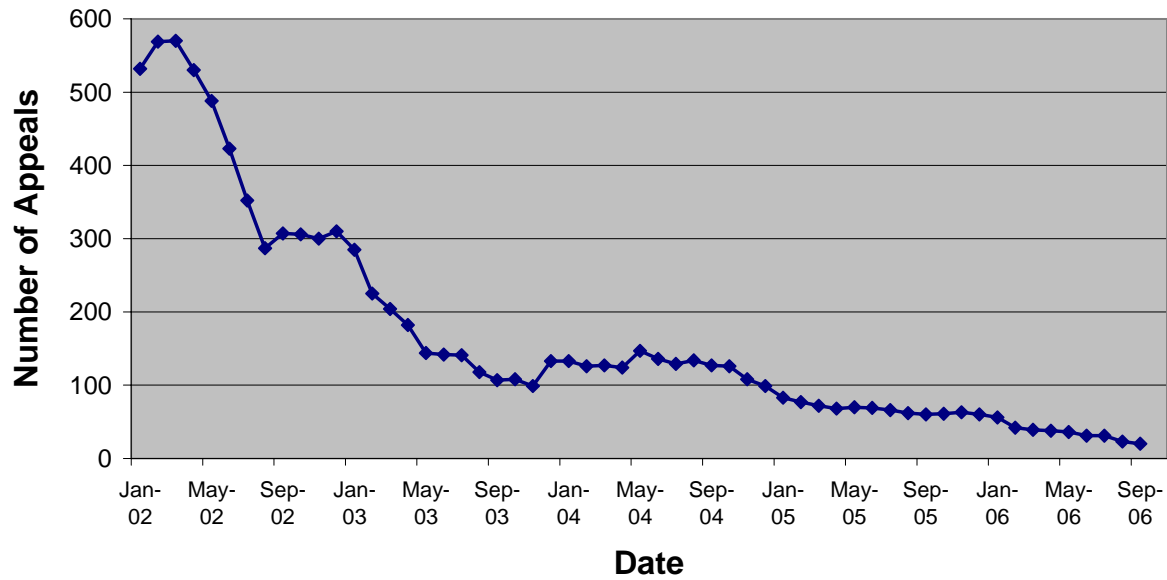
Six (6) dismissals were issued in September and one (1) new appeal was received.

The total amount on appeal at the end of September was \$265,692.97.

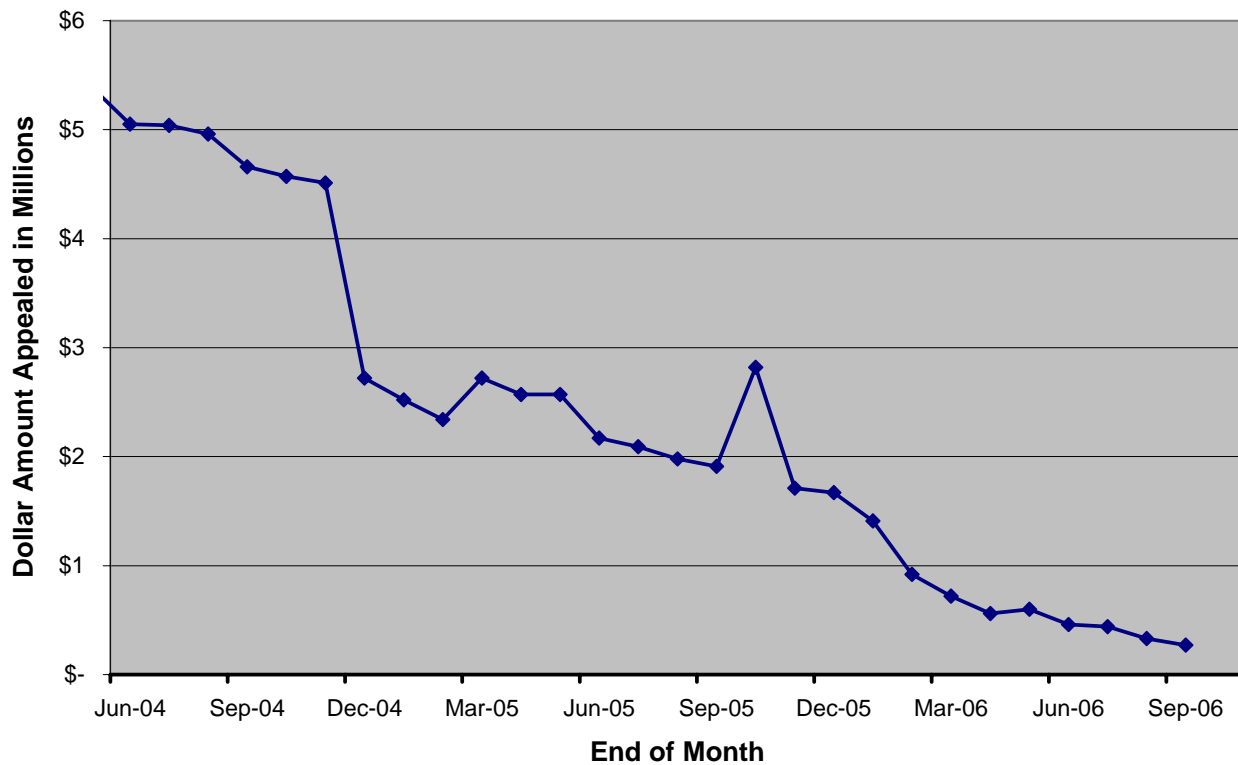
|   | Jan  | Feb  | Mar | Apr | May  | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|------|------|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|
| New Appeals received during Month           | 6    | 1    | 5   | 6   | 5    | 2   | 4   | 2   | 1   |     |     |     |
| Total Closures during Month                 | 9    | 15   | 8   | 7   | 5    | 9   | 4   | 10  | 6   |     |     |     |
| Mean Days Receipt to Close                  | 277  | 283  | 553 | 469 | 416  | 147 | 82  | 649 | 468 |     |     |     |
| Pending End of Month                        | 56   | 42   | 39  | 38  | 38   | 31  | 31  | 23  | *20 |     |     |     |
| Change from Prior Month                     | (3)  | (14) | (3) | (1) | (0)  | (7) | 0   | (8) | (5) |     |     |     |
| Hearings                                    |      |      |     |     |      |     |     |     |     |     |     |     |
| Hearings Held in Month                      | 0    | 0    | 0   | 1   | 1    | 1   | 1   | 0   | 0   |     |     |     |
| Mean Days Receipt to Hearing                | n/a  | n/a  | n/a | 313 | 664  | 804 | 517 | n/a | n/a |     |     |     |
| Scheduled in Future Periods                 | 2    | 7    | 6   | 7   | 6    | 8   | 7   | 4   | 1   |     |     |     |
| Mean Days Receipt to Scheduled              | 1156 | 597  | 569 | 556 | 538  | 894 | 948 | 628 | 947 |     |     |     |
| Final Decisions Issued after Hearing        | 0    | 0    | 0   | 0   | 1    | 0   | 0   | 1   | 1   |     |     |     |
| Settlements                                 |      |      |     |     |      |     |     |     |     |     |     |     |
| Settled                                     | 7    | 12   | 8   | 7   | 3    | 5   | 4   | 5   | 5   |     |     |     |
| Mean Days Receipt to Dismissed/Settled      | 336  | 179  | 553 | 469 | 51   | 56  | 82  | 776 | 481 |     |     |     |
| Withdrawals                                 |      |      |     |     |      |     |     |     |     |     |     |     |
| Withdrawn                                   | 1    | 2    | 0   | 0   | 0    | 4   | 0   | 4   | 0   |     |     |     |
| Mean Days Receipt to Withdrawal             | 39   | 466  | n/a | n/a | n/a  | 260 | n/a | 550 | n/a |     |     |     |
| Dismissed On Motion                         | 1    | 1    | 0   | 0   | 1    | 0   | 0   | 0   | 0   |     |     |     |
| Dismissed-UT, Failure to Pros, No Standing  | 1    | 1    | 0   | 0   | 1    | 0   | 0   | n/a | n/a |     |     |     |
| Mean Days Receipt to Dismissal              | 103  | 1166 | n/a | n/a | 37   | n/a | n/a | n/a | n/a |     |     |     |
| Decisions Rendered by ALJ or Secretary      | 0    | 0    | 0   | 1   | 1    | 0   | 1   | 1   | 1   |     |     |     |
| Mean Days Receipt to Decision               | n/a  | n/a  | n/a | 313 | 1889 | n/a | 392 | 412 | 405 |     |     |     |
| Decisions Rendered by Circuit Court         | 0    | 0    | 0   | 0   | 0    | 0   | 0   | 0   | 0   |     |     |     |
| Decisions Rendered by Court of Appeals      | 0    | 0    | 0   | 0   | 0    | 0   | 0   | 0   | 0   |     |     |     |
| Mean Days Receipt to Decision               | n/a  | n/a  | n/a | n/a | n/a  | n/a | n/a | n/a | n/a |     |     |     |
| Awaiting Decision                           | 2    | 2    | 2   | 3   | 3    | 4   | 4   | 4   | 3   |     |     |     |
| Awaiting <u>Proposed</u> Decision           | 2    | 2    | 2   | 2   | 3    | 4   | 4   | 3   | 3   |     |     |     |
| Mean Days since Hearing                     | 67   | 95   | 126 | 72  | 75   | 85  | 93  | 78  | 108 |     |     |     |
| Awaiting <u>Final</u> Decision by Secretary | 0    | 0    | 0   | 1   | 0    | 0   | 1   | 1   | 0   |     |     |     |
| Mean Days since Proposed Decision           | n/a  | n/a  | n/a | 16  | n/a  | n/a | 30  | 16  | n/a |     |     |     |
| Awaiting <u>Final</u> Decision by ALJ       | 0    | 0    | 0   | 0   | 0    | 0   | 0   | 0   | 0   |     |     |     |
| Mean Days since Hearing                     | n/a  | n/a  | n/a | n/a | n/a  | n/a | n/a | n/a | n/a |     |     |     |
| Awaiting Decision by Court of Appeals       | 0    | 0    | 0   | 0   | 0    | 0   | 0   | 0   | 0   |     |     |     |

\* An adjustment has been made to the total number of pending appeals, after a manual accounting was performed.

## Appeals Pending Since January 2002



## Dollar Amount of Pending Appeals



### **New Appeals Received in September 2006**

In September the department received 1 new appeal in the sum amount of \$49,155.46. There were 20 appeals pending at the end of the month.

| Monthly Report - new appeals |                |       |                              |             |           |           |
|------------------------------|----------------|-------|------------------------------|-------------|-----------|-----------|
| Appellant                    | Expr10         | UCID  | Issue(s)                     | Amount      | RecDate   | DecDate   |
| Mike Arnold                  | 53562-3021-05B | 06-32 | new release; upgraded system | \$49,155.46 | 9/21/2006 | 8/24/2006 |

### **Appeals Closed in September 2006**

The following 6 appeals were closed in September. Two (33%) were closed in 90 days or less. The average number of days from receipt of the appeal to decision was 468 days for all appeals closed in the month of September. The total amount appealed in the closed cases was \$110,324.93. The total amount paid was \$102,416.71 (net of interest) or approximately 93% of the total appealed.

| Monthly Report - closed appeals |       |                                |             |          |             |          |           |
|---------------------------------|-------|--------------------------------|-------------|----------|-------------|----------|-----------|
| Appellant                       | Hrg # | Issue(s)                       | Appeal Amt  | Days2Dec | Amount      | Decision | DecDate   |
| Richard R. Dooley               | 06-31 | not bid                        | \$7,380.00  | 15       | \$7,380.00  | settled  | 9/5/2006  |
| Fred Kelm                       | 06-30 | over cap                       | \$360.00    | 25       | \$360.00    | settled  | 9/1/2006  |
| Joseph R. Ritchie               | 05-47 | ineligible system - negligence | \$84,925.27 | 405      | \$84,925.27 | decided  | 9/7/2006  |
| James Spinato                   | 03-34 | work after closure             | \$9,366.78  | 1343     | \$5,605.00  | settled  | 9/21/2006 |
| Mark Swatek                     | 05-18 | over cap                       | \$6,820.38  | 511      | \$3,410.19  | settled  | 9/1/2006  |
| Mark Swatek                     | 05-17 | over cap                       | \$1,472.50  | 511      | \$736.25    | settled  | 9/1/2006  |

### **Appeals Set for Hearing**

There is currently one (1) appeal scheduled for hearing in the upcoming months.

| Monthly Report - hearings scheduled future |            |             |       |          |          |             |
|--|------------|-------------|-------|----------|----------|-------------|
| Appellant                                  | HrgDate    | PECFAID     | Hrg#  | Days2Hrg | Issue(s) | Amount      |
| Al Morey                                   | 10/26/2006 | 54945951495 | 04-81 | 947      | interest | \$15,936.00 |

### **Appeals Heard but not Decided**

There are three (3) cases awaiting proposed decision by the ALJ.

| Monthly Report - awaiting proposed decision |               |        |           |           |               |
|---|---------------|--------|-----------|-----------|---------------|
| Appellant                                   | Commerce #    | Hrg #  | RecDate   | HrgDate   | Since Hearing |
| Brian Enke                                  | 53813-1349-51 | 05-9   | 2/25/2005 | 7/27/2006 | 65            |
| Paul Gyuro                                  | 53132-9523-31 | 04-180 | 7/15/2004 | 5/10/2006 | 143           |
| Mark Nonweiler                              | 54901-1414-21 | 04-80  | 3/24/2004 | 6/6/2006  | 116           |

Note: The administrative law judge is delegated final decision-making authority for expedited appeals and appeals in which no hearing is held because the appeal is moot, untimely or the appellant has defaulted.

### **Proposed Decisions Issued**

There are no proposed decisions awaiting final decision by the Secretary's Office.

### **Final Decisions Issued**

There was 1 final decision issued by the Secretary's Office in September.

| <b>Monthly Report - final decs after hearing</b> |              |                                |                     |                  |              |
|--|--------------|--------------------------------|---------------------|------------------|--------------|
| <b>Expr1</b>                                     | <b>Hrg #</b> | <b>Issue(s)</b>                | <b>FinalDecDate</b> | <b>On_Appeal</b> | <b>ALJID</b> |
| Joseph Ritchie                                   | 05-47        | ineligible system - negligence | 9/7/2006            | 405              | WICKS        |

### **Final Decisions Issued after Judicial Review**

There were no decisions issued by the Circuit Court following review of a Final Decision.

### **Final Hearing Decisions on Appeal in Circuit Court**

The are no final decisions awaiting review in Circuit Court.

### **Final Decision Issued by the Court of Appeals**

There are no appeals awaiting decisions in the court of appeals.